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Campaign Finance

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What Does NCSL Do?

- ❑ Serves 7,383 legislators and 25,000 legislative staff
- ❑ Provides non-partisan research & analysis
- ❑ Links legislators with experts and each other
- ❑ Speaks on behalf of legislatures in D.C.



Campaign Finance Regulation: Only Three Choices

1. Disclosure/
Reporting
2. Public Financing
3. Contribution
Limits



Trends—in Brief

- ❑ Half of legislation is on disclosure
- ❑ Not much action on public financing
- ❑ Do see increases to contribution limits



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DISCLOSURE



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Questions to ask about disclosure:

- ❑ What entities must disclose?
- ❑ What size contribution must be disclosed?
- ❑ What information is disclosed?
- ❑ When are disclosures required?



Examples:

Mississippi: Reports due in April, May, June, December and 7 days before an election AND for any \$200+ contribution given in the last ten days

Arizona: Explicitly relieves 501(c)3s from reporting



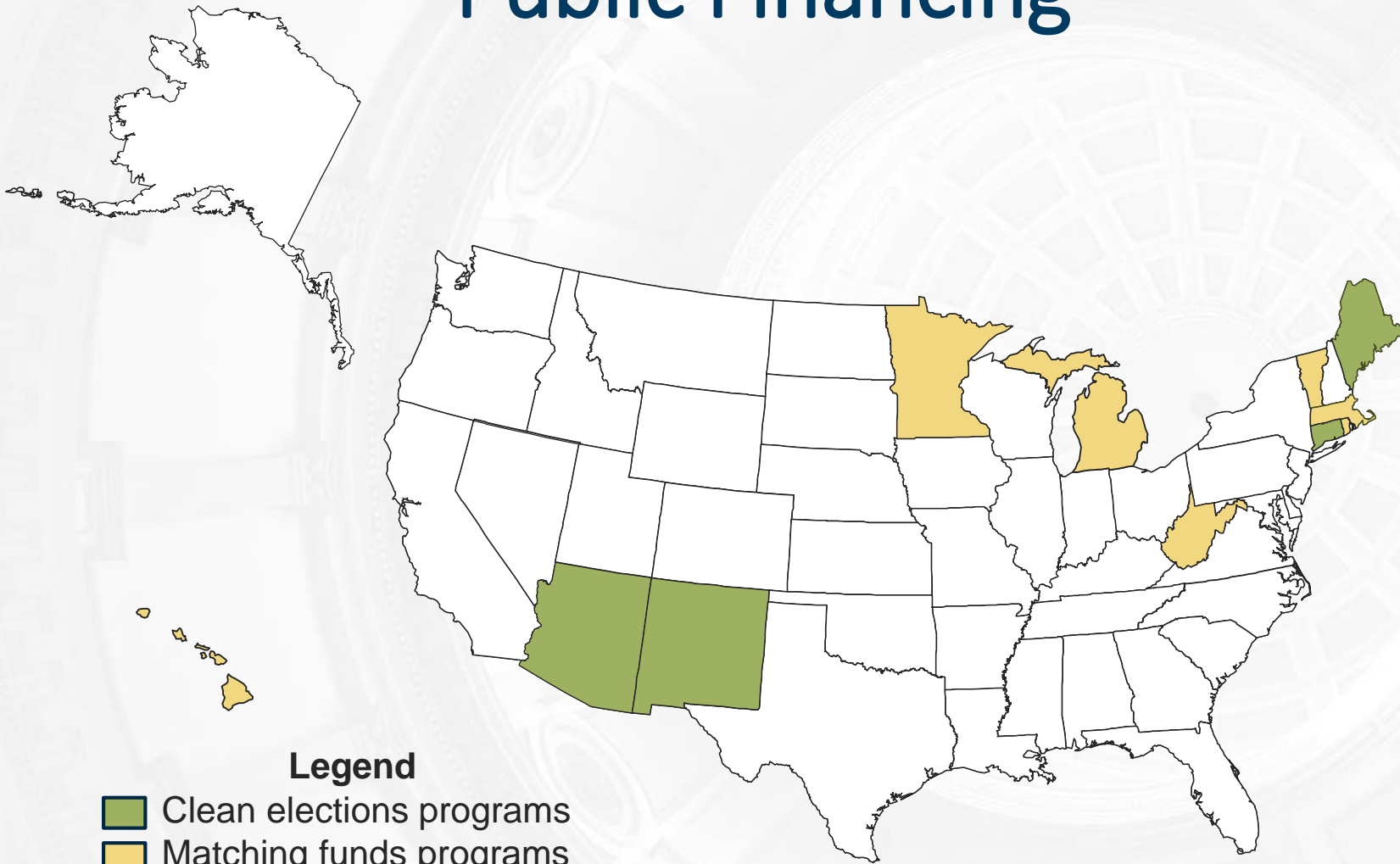
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PUBLIC FINANCE





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Public Financing



Legend

-  Clean elections programs
-  Matching funds programs



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State actions on public financing

□ 2015

- Maine increased its clean elections program

□ 2016

- South Dakota voters passed vouchers (since repealed)
- Washington voters turned down vouchers

□ 2017

- Oregon considering public financing



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SUPREME COURT



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BUCKLEY V. VALEO

424 U.S. 1 (1976)

- **Significance:** Contribution limits for federal candidates are constitutional, expenditure limits are not.



NIXON V. SHRINK MISSOURI GOVERNMENT PAC

528 U.S. 377 (2000)

- **Significance:** State limits on contributions to state candidates are constitutional too.



*CITIZENS AGAINST RENT
CONTROL V. CITY OF BERKELEY*

454 U.S. 290 (1981)

- **Significance:** There can be no contribution limits to ballot initiatives.



RANDALL V. SORRELL

548 U.S. 230 (2006)

- **Significance:** States cannot limit independent expenditures, and must ensure contribution limits are high enough for candidates to run effective campaigns.



CITIZENS UNITED V. FEC

558 U.S. 310 (2010)

- **Significance:** States cannot limit contributions to non-candidate groups that spend on electioneering communications, as long as the group does not directly align itself with a candidate.



MCCUTCHEON V. FEDERAL ELECTION COMMISSION

536 U.S. ____ (2014)

- ❑ **Significance:** States cannot impose aggregate limits on how much an individual or group contributes in total.



Court Recap

- Limits on *expenditures* are not ok
- Limits on *contributions* are ok...
 - ...but not for contributions to ballot measures
 - ...and not as an aggregated amount
- Limits can't be too low



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CONTRIBUTION LIMITS



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Federal Contribution Limits to Candidates

Individual	→	\$2,700
Candidate Committee	→	\$2,000
Multicandidate PAC	→	\$5,000
Non-multicandidate PAC	→	\$2,700
State/local/district party	→	\$5,000
National party	→	\$5,000

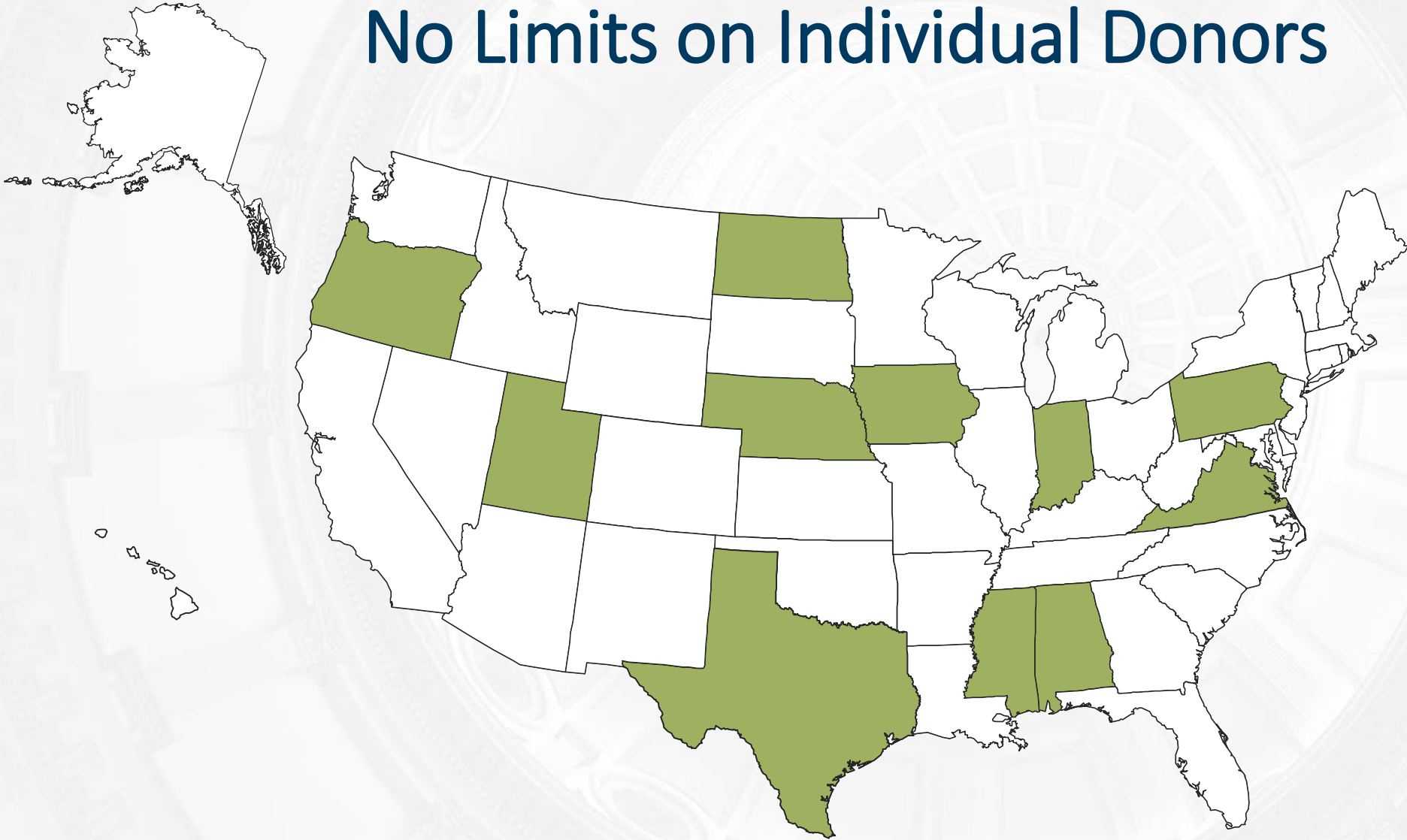


State Limits (An Overview)

- ❑ 11 States have no individual limits on contributions to candidates
 - ❑ 5 have no limits of any kind (AL, NE, OR, UT, VA)
- ❑ States can limit contributions to candidates from:
 - ❑ Individuals
 - ❑ State Political Parties
 - ❑ PACs
 - ❑ Corporations
 - ❑ Unions



No Limits on Individual Donors



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Individual Contribution Limits

	Governor	State Senate	State House
Average	\$6,063	\$4,902	\$3,143
Median	\$6000	\$3,500	\$2,040
South Dakota	\$4,000	\$1,000	\$1000
Highest	\$65,100 (NY)	\$25,415.58 (OH)	\$25,415.58 (OH)
Lowest	\$500 (CO)	\$400 (CO)	\$400 (CO)

State Limits: Party to Candidates

- ❑ 15 states have no limits, including SD.
- ❑ Other states have contribution limits on state parties giving to a candidate.
- ❑ It's complicated!



State Party to Candidate Limits

	Governor	State Senate	State House
Average	\$95,591	\$18,763	\$11,969
Median	\$8,150	\$4,175	\$3,850
South Dakota	unlimited	unlimited	unlimited
Highest Limit	\$706,824 (OH)	\$140,989 (OH)	\$70,181 (OH)
Lowest Limit	\$1,000 (NH)	\$375 (ME)	\$375 (ME)



State Limits: PAC to Candidates

- ❑ “PAC to candidate” limits are mostly the same as “individual to candidate” limits
- ❑ 12 state have higher limits for PACs
- ❑ Only one state is lower – Massachusetts
- ❑ Some have different limits for “big PACs,” “independent PACs,” “Super PACs,” small donor committees



Corporation/Union to Candidate Limits

Unlimited Corp. To Candidate		Unlimited Union to Candidate	
Alabama Missouri Nebraska Oregon	Utah Virginia	Alabama Iowa Mississippi Missouri	Nebraska Oregon Utah Virginia
Prohibited Corp. to Candidate		Prohibited Union to Candidate	
Alaska Colorado Connecticut Iowa Kentucky Massachusetts Michigan Minnesota Montana North Carolina	Ohio Oklahoma Pennsylvania Rhode Island South Dakota Texas West Virginia Wisconsin Wyoming	Alaska Connecticut Michigan New Hampshire North Carolina Ohio Oklahoma Pennsylvania Rhode Island South Dakota	Texas Wisconsin Wyoming



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STATUS QUO IN *NEIGHBORING STATES*



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Nebraska



- ❑ No limits on contributions to candidates—because 1992 law declared unconstitutional by Nebraska Supreme Court.
- ❑ LB 79 (2013) did away with those limits, but strengthened disclosure and reporting requirements.





North Dakota

- ❑ No limits on individual, state party, or PAC contributions to candidates. Unions and corporations are prohibited from making contributions to candidates.
- ❑ HB 1293 (2015), which would have prohibited personal use of funds for campaigns, was most recent significant proposal to change individual contribution limitations. It failed.



Montana



- Historically the most restrictive state.
- Its contribution limits post-*Citizens United* were struck down by the Supreme Court in *Western Tradition Partnership, Inc. v. Montana* (2012).
- The ongoing case of *Lair v. Motl*, also re contribution limits, is working its way through the federal courts. The state has reinstated previous limits adjusted for inflation; these are in question.



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RECENT ACTION



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Wisconsin Acts 117 & 118 (2016)



- Raised the state's limits
- Under the new law...
 - ...Corporate and union contributions to candidates prohibited
 - ...State party contributions to candidates unlimited



Missouri Constitutional Amendment 2 (2016)



- Established limits on contributions to candidates for the first time
 - Prohibited contributions from corporations and unions
 - Set all other contribution limits at \$2,600/election
 - Passed by ballot initiative



Wyoming HB 187 (2013)



- ❑ Increased individual limits
 - ❑ \$1,000 → \$1,500 for legislative candidates
 - ❑ \$1,000 → \$2,000 for statewide candidates
- ❑ Created contribution limits for PACs to candidates
 - ❑ \$7,500 for statewide candidates
 - ❑ \$3,000 for other candidates



Wyoming HB 38 (2015)



- Changed 2013 contribution limits from PACs
 - Eliminated limit to statewide offices
 - Increased limit for other candidates to \$5,000



Arizona HB 2593 (2013)



- Increased limits from individuals to candidates:
 - \$488 → \$2,500 for legislative offices
 - \$1,010 → \$2,500 for statewide offices
- Increased PACs to candidates: \$2,000 → \$5,000
- Eliminated aggregate limits
- Required notification of \$1000+ contributions from single source received within 20 days of election



Alabama SB 445 (2013)



- ❑ Eliminated \$500 limit on corporate contributions to candidates
- ❑ Lowered the reporting threshold
- ❑ Addressed enforcement/penalties for noncompliance with disclosure requirements



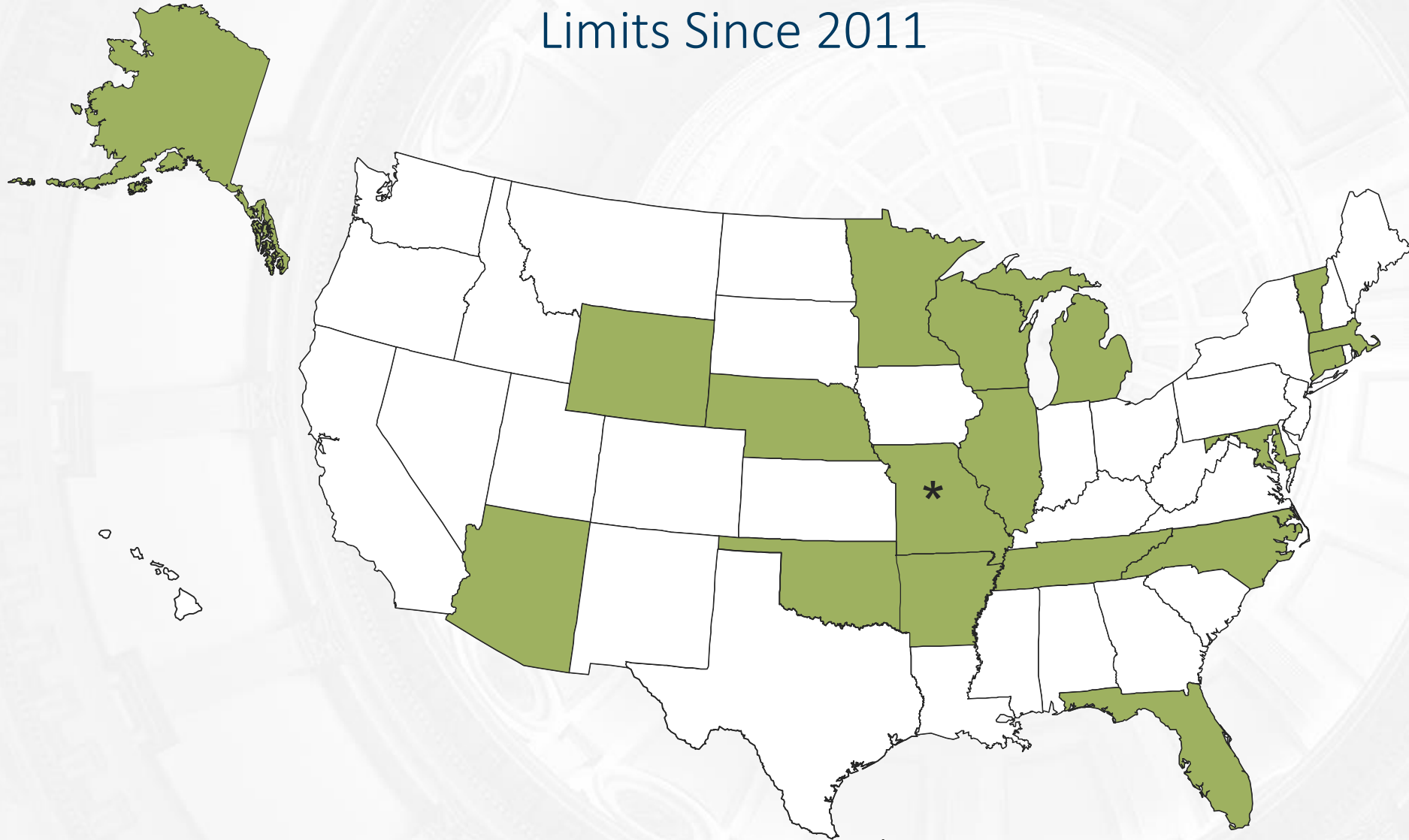
Vermont SB 82 (2014)



- ❑ Established different limits by office
 - ❑ \$1000 → \$4,000 statewide office
 - ❑ \$1000 → \$1,500 state Senate
 - ❑ \$1,000 state House stayed the same
- ❑ Changed PAC limits from \$3,000 to same as individual limits
- ❑ Increased identification requirements for electioneering/independent expenditures



States That Have Raised Contribution Limits Since 2011



* MO instituted contribution limits



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OTHER CHOICES

RELATING TO LIMITS



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Out-of-state Contributions

- ❑ AK, HI, OR, VT and WA place stricter contribution limits on non-residents, which they legally justify under a “sovereignty” principle.
- ❑ These laws raise equal protection and Art. IV, Sec. 2 concerns (states must treat citizens of other states equally).

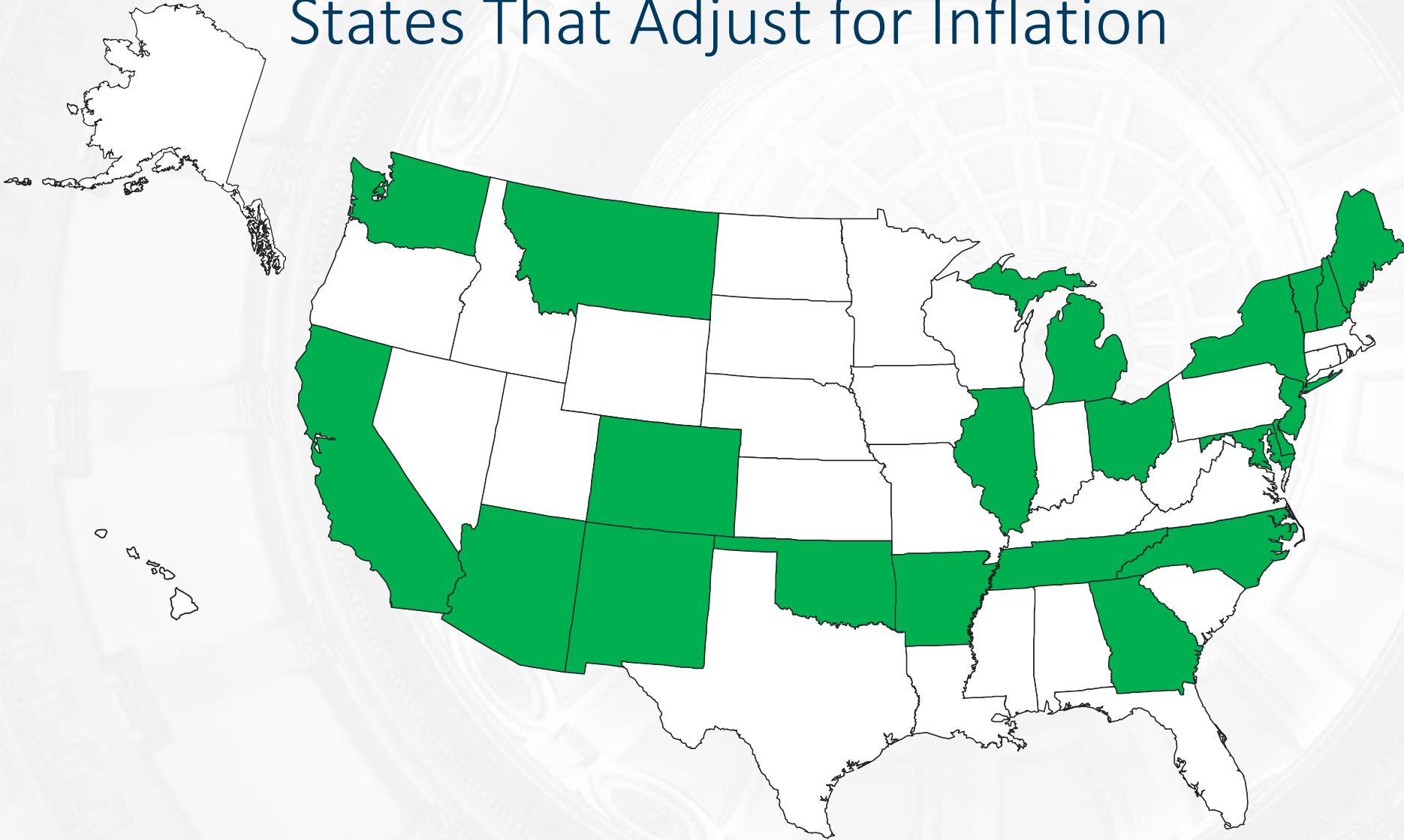


Ballot Measure Regulation

- ❑ Only disclosure ok—not limits
 - ❑ Triggers (at first contributions, or when register as a committee, etc.)
 - ❑ Thresholds (all contributions, or only large ones)
 - ❑ Timing of reports



States That Adjust for Inflation



Other Trends in Campaign Finance

- ❑ Electronic reporting/searchable databases
- ❑ Enforcement/penalties for noncompliance
- ❑ Identification for electioneering
- ❑ Coordination between candidates & independent groups



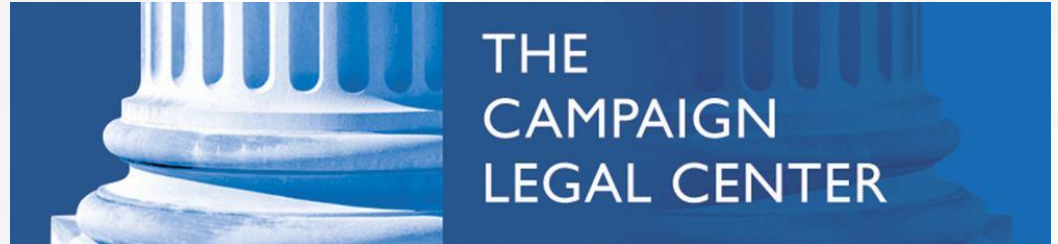
Other Organizations Worth Tapping



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